IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 17763 of 2004

Between:

Navudu Veera Raghava Rao, S/o Hanumantha Rao,
R/o Turangi, Kakinada mandal, East Godavari District

..... PETITIONER

AND

1 The Commissioner of Prohibition & Excise,

Andhra Pradesh, Nampally, Hyderabad
2 The Deputy Commissioner of Prohibition and

Excise, Kakinada, East Godavari District
3 The Prohibition & Excise Superintendent, Kakinada,

East Godavari District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not refunding the proportionate license fee paid by the petitioner for the period from 01-04-2001 to 28-12-2001 during which the business of the petitioner's I.L.24 shop bearing L.No.729/01-02 situated at Uppalanka, Karapa Mandal, E.G.district was closed on account of the seizure of its license by the respondent authorities as illegal, arbitrary and unjust and consequently direct the respondents to refund the proportionate license fee forthwith for the said period.

Counsel for the Petitioner: MR.N.SIVA REDDY

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court made the following:

ORDER:

The petitioner seeks to issue a writ of Mandamus declaring the action of the respondents in not refunding the proportionate licence fee paid by him for the period from 01.04.2001 to 28.12.2001 during which period the business of his shop bearing L.No.729/01-02 situated at Uppalanka, Karapa Mandal, East Godavari District, was closed on account of the seizure of its licence by the respondent authorities, as illegal and arbitrary and consequently, to direct the respondents to refund the proportionate licence fee for the said period to the petitioner forthwith.

The brief case of the petitioner is that he was granted I.L.24 licence under the A.P. Excise Act by the third respondent for the Excise year 1998-99 in respect of the aforesaid shop and the said licence was renewed from time to time. Further, it is stated that he paid the full licence fee for the entire excise year 2001-2002 and his licence was last renewed by the third respondent for the excise year 2001-2002 on 29.03.2001. While so, as the Excise Inspector took away the original licence copy on the premise of effecting change in the boundary column of the licence, he was not in a position to carry on the business from 01.04.2001 onwards. In spite of repeated requests, as the excise authorities did not return the licence, the petitioner filed W.P.No.7371 of 2001, wherein this Court directed the authorities to issue a duplicate licence. Thereafter, from 29.12.2001 onwards he started his business.

The main grievance of the petitioner is that from 01.04.2001 to 28.12.2001 due to the aforesaid reasons his shop remained closed and as such, he is entitled to refund of the proportionate licence fee for the said period. Though he submitted representation, dated 27.03.2003, to the third respondent seeking refund of the

proportionate licence fee, the same was not considered till date. Hence, the petitioner ventured to file the present writ petition.

No counter-affidavit if filed on behalf of the respondents denying the averments made in the affidavit, filed in support of the writ petition.

When the matter is taken up for hearing, the learned Government Pleader for the respondents admitted the fact that the representation of the petitioner, dated 27.03.2003, was not considered.

Under the circumstances, without going into the merits of the case, I deem it appropriate to dispose of the writ petition with a direction to the third respondent-The Prohibition and Excise Superintendent, Kakinada, to consider the representation of the petitioner, dated 27.03.2003, and pass appropriate orders, in accordance with law, expeditiously, within a period of six weeks from the date of receipt of a copy of this order.

With the above observation, the writ petition is disposed of. No order as to costs.

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25.04.2005

dr/tvk

To

1 The Commissioner of Prohibition & Excise,

Andhra Pradesh, Nampally, Hyderabad
2 The Deputy Commissioner of Prohibition and

Excise, Kakinada, East Godavari District
3 The Prohibition & Excise Superintendent, Kakinada,

East Godavari District

4 2 CCs to Government Pleader for Prohibition and

Excise, High Court Buildings, Hyderabad. (OUT)

5 2 CD copies

6 1 CC to MR.SIVA REDDY